IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.9566 of 2004

Mr S.N.Vasagdekar and ors ..Petitioners

vs

The State of Mah and ors...Respondents

Mr.Nitin Pradhan with Ms S.D.Khot for petitioners

CORAM: A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated l5.l2.2004

P.C:

Heard learned counsel for the petitioners.

2. The petitioners are retired Government servants who have acquired flats by registered sale deeds in the year l990 in a building called "Amit Apartment" which was developed and constructed by the respondent no. 6. The grievance of the petitioners is that their sale deeds have been registered, however, till date their names have not been entered in the Record of Rights as owners as provided under section l49 of the Maharashtra Land Revenue Code, l966. According to the petitioners they made application to the respondent no. 5 on 20.9.l997 for getting their names entered in the Record of Rights. The respondent no. 5 asked the petitioners to get the NOC from the respondent no. 4 i.e. Sangli Miraj, Kupwad Municipal Corporation.

Vide order dated l4.l.l998 the Municipal Corporation refused to grant NOC as the original tenants of the property had made unauthorised construction on part of the property as a result no orders are passed on the application of the petitioners for entering their names in the Record of Rights till date.

3. Mr Nitin Pradhan, learned counsel appearing for the petitioners submitted that the petitioners are no way concerned weith the unauthorised construction made by the tenants and after inquiry the City Survey Officer directed to cancel the sale deeds in favour of the tenants and delete the names of the tenants from the City Survey record. He submitted that notices for demolition was also issued by Sangli Municipal Corporation in respect of the said unauthorised and illegal structure and part of the structure is demolished. He submitted that the tenants have filed suits in the Civil Court challenging the action of the Sangli Municipal Corporation and those suits are pending . Mr. Pradhan submitted that the petitioners are the rightful owners of their respective flats. Merely because the original tenants have fraudulently obtained excess FSI from the Corporation,petitioners cannot be denied their

right to enter their names in the Record of Rights /CTS record. We find substance in the submission of Mr. Pradhan. The suits filed by the tenants may not be decided in near future and in any event the petitioners are in no way concerned with the illegalities committed by the tenants. Pending litigation does not concern the petitioners ownership rights in respect of the flats purchased by them. We therefor direct the respondent nos 2 and 5 to consider the application made by the petitioners for entering their names in the Record of Rights/ CTS record on its own merit in accordance with law and pass appropriate orders within a period of 3 months from today.

Petition is accordingly disposed of.